

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

JEFF HOLCOMB and NICOLE)
DENORMANDIE,)
Plaintiffs,) Case No.: 2:20-cv-00424
v.)
MENARD, INC.,)
Defendant.)
)

NOTICE OF REMOVAL

COMES NOW Counsel, Renee J. Mortimer of Lewis Brisbois Bisgaard & Smith LLP, on behalf of Defendant, MENARD, INC., and hereby files this Notice of Removal pursuant to 28 U.S.C.S. §1446, and invokes this Court's jurisdiction under the provisions of 28 U.S.C.S. §1332 and 28 U.S.C.S. §1441(b). In support of said removal, the Defendant states as follows:

1. On or about October 29, 2020, the Plaintiffs filed their Complaint in the Lake Circuit Court in Lake County, Indiana. Plaintiffs allege in the Complaint that on November 9, 2018, Plaintiffs were customers on store premises in Schererville, Indiana and purportedly sustained personal injuries. Specifically, Plaintiffs claim that while shopping at the Menard store in question, the Plaintiffs were injured when a number of counter tops that they allege were not stacked, and/or nor secured properly, or the like, fell onto the Plaintiffs. *See, Group Exhibit A,* Plaintiffs' Complaint for Damages, ¶¶ 1-3. The Plaintiffs' alleged cause of action described in those papers sounds in negligence, and it was brought with style and caption as *Jeff Holcomb and Nicole DeNormandie v. Menard, Inc.* and is assigned Case No. 45C01-2010-CT-001067 (the "State Court Action"). *See Generally, Group Exhibit A.*

2. On November 9, 2020, Defendant, MENARD, INC., was served with a copy of the Summons and Plaintiffs' Complaint for Damages. *See Generally, Group Exhibit A.*

3. 28 U.S.C.S. §1446(b) provides that a notice of removal may be filed within thirty (30) days after receipt by the Defendant of the initial pleading. The lawsuit was commenced on October 29, 2020 and served upon Defendant on November 9, 2020. As such, Defendant's Notice of Removal is timely filed under 28 U.S.C.S. §1446(b), as the time by which removal must be effectuated is December 9, 2020, and this Notice of Removal has been filed in advance of that date.

4. At all times relevant to the Plaintiffs' Complaint for Damages, Jeff Holcomb and Nicole Denormandie, were citizens of Hammond, Lake County, State of Indiana.

5. Under 28 U.S.C.S. §1332(c), a corporation is deemed a "citizen" for §1332 purposes only where it is incorporated and where its principal place of business is located. *Hertz Corp. vs. Friend*, 559 U.S. 77, 80 (2010).

6. At all times relevant to the Plaintiffs' Complaint, for Damages the place of incorporation and principal place of business of MENARD, INC., was Eau Claire, Wisconsin. Thus, MENARD, INC. is a citizen of the State of Wisconsin.

7. Plaintiffs claim that as a result of the claimed incident, Plaintiff, JEFF HOLCOMB, sustained injuries to his head, neck, back and fractured his wrist. Plaintiffs claim that Plaintiff, NICOLE DENORMANDIE, sustained injuries to her right shoulder and back. In their Complaint, both Plaintiffs claim that they incurred property damage and suffered injuries, some of which are permanent, incurred medical expenses for care, testing and treatment, suffered loss of wages and earning ability, and an inability to engage in their normal daily activities for an indefinite period of time. *See, Group Exhibit A*, Plaintiffs' Complaint for Damages, ¶ 6.

Plaintiffs counsel has advised that the amount in controversy in this matter exceeds the \$75,000 threshold that is necessary for removal to this Honorable Court.

8. Thus, the amount in controversy meets the federal requirement for removal. *See, Copak vs. State Farm Mut. Auto. Ins. Co.*, 2013 WL 450198 (N.D. Ind. 2013) (holding that where the amount in controversy is plausible based on the pleadings and the evidence, removal is proper).

9. Because the jurisdictional minimum is satisfied and the parties are of diverse citizenship, the Court has jurisdiction over this matter under 28 U.S.C.S. §1332.

10. Pursuant to 28 U.S.C.S. §1446(d), the Defendant has given written notice of this removal to all parties in the State Court Action, and have filed a copy of this Notice of Removal with the clerk of the Lake County Circuit Court.

11. Pursuant to 28 U.S.C.S. §1446(a), the Defendant attaches to this Notice of Removal a copy of all pleadings, papers, and other orders served upon them in the State Court Action to date. *See, Group Exhibit A.*

WHEREFORE, the Defendant prays this Notice be granted and that said action be removed in its entirety from the Circuit Court of Lake County, State of Indiana, to the United States District Court, Northern District of Indiana, as provided by law.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: s/ Renee J. Mortimer
Renee J. Mortimer (20724-45)
Renee.Mortimer@lewisbrisbois.com
2211 Main Street, Suite 3-2A
Highland, IN 46322
T: 219.440.0604/F: 219.440.0601